

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:10-CR-8-1-F

UNITED STATES OF AMERICA

v.

CORNELL BREON RILLEY HARPER,
Defendant.

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ORDER

This matter is before the court on Defendant's Motion to Withdraw Guilty Plea [DE-49]. Cornell Harper ("Defendant"), on April 6, 2010, entered into a plea agreement in which he pled guilty to Count One of the Indictment charging him with felon in possession of a firearm in violation of 18 U.S.C. §922(g)(1). Subsequently, Defendant changed his mind and requested that the plea agreement be withdrawn because it had not been approved by the court. The request was granted and the parties proceeded to prepare for trial. On June 8, 2010, Defendant, again, changed his mind and entered a plea of guilty to Count One of the Indictment, which was approved by the court and filed in open court on said date. Now, before sentencing, Defendant wishes to withdraw his guilty plea.

Rule 11 of the Federal Rules of Criminal Procedure governs plea withdrawals, and provides the following:

A defendant may withdraw a plea of guilty or nolo contendere:
(1) before the court accepts the plea for any reason or no reason; or
(2) after the court accepts the plea, but before it imposes sentence if:
 (A) the court rejects a plea agreement under Rule 11(c)(5); or
 (B) the defendant can show a fair and just reason for requesting the withdrawal.

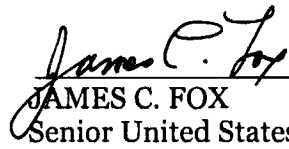
FED.R.CRIM.P. 11(d).

Rule 11(d)(2)(b) governs the factual scenario presently before the court, as the court accepted Defendant's guilty plea on June 8, 2010. Accordingly, Defendant bears the burden of demonstrating "a fair and just reason for requesting the withdrawal" of his guilty plea. *Id.* In his motion, Defendant has failed to make any showing as to a fair and just reason for withdrawal of his guilty plea.

Therefore, Defendant's Motion to Withdraw Guilty Plea [DE-49] is DENIED.

SO ORDERED.

This 10th day of September, 2010.



JAMES C. FOX
Senior United States District Judge